

### **DETAILED ACTION**

1. The response filed 11/4/09 has been received and considered. Claims 1-3, 5-12, 15-25, 27 and 28 are presented for examination.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 11/4/09 has been entered.

#### ***Information Disclosure Statement***

3. It is noted that Applicant has submitted a 61 page information disclosure statement containing numerous references with the filing of this Request for Continued Examination. Upon review by the Examiner, many of these references were found to be not pertinent to the claimed invention. The listing of references on the face of a published patent that have nothing to do with the technology taught by the patent provide no benefit to the public when trying to find pertinent and relevant art relating to the patented technology.

It is respectfully requested that upon the filing of further information disclosure statements,

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Applicant point to the most significant references. Applicant is referred to the following from the MPEP:

***2004 [R-2] Aids to Compliance With Duty of Disclosure***

*13. It is desirable to avoid the submission of long lists of documents if it can be avoided. Eliminate clearly irrelevant and marginally pertinent cumulative information. **If a long list is submitted, highlight those documents which have been specifically brought to applicant's attention and/or are known to be of most significance.** See *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, 175 USPQ 260 (S.D. Fla. 1972), *aff'd*, 479 F.2d 1338, 178 USPQ 577 (5th Cir. 1973), *cert. denied*, 414 U.S. 874 (1974). But cf. *Molins PLC v. Textron Inc.*, 48 F.3d 1172, 33 USPQ2d 1823 (Fed. Cir. 1995).*

4. The information disclosure statement (IDS) submitted on 11/4/09 was filed after the mailing date of the Notice of Allowance on 8/6/09. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

**EXAMINER'S AMENDMENT**

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Amir A. Tabarrok, Reg. No. 57,137 on 6/23/08.

The application has been amended as follows:

The first paragraph of the specification has been amended as follows:

Line 3, --issued as US Patent 6,957,180,-- has been inserted after "November 15, 2001,"

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Line 4, --issued as US Patent 6,922,821,—has been inserted after “November 15, 2001”

Line 5, --issued as US Patent 7,206,733,-- has been inserted after “October 10, 2001”

Line 7, --issued as US Patent 7,089,175,-- has been inserted after “filed November 1, 2001”

Line 7, --issued as US Patent 7,162,410,-- has been inserted after “filed November 14, 2001”

Line 8, --issued as US Patent 7,236,921,-- has been inserted after “filed November 14, 2001”

Line 8, --issued as US Patent 7,185,321,-- has been inserted after “filed March 29, 2002”

Line 9, -issued as US Patent 6,922,821,-- has been inserted after "filed November 15, 2001"

Line 10, --issued as US Patent 7,099,818,-- has been inserted after “filed March 29, 2002”

### ***Allowable Subject Matter***

6. The Examiner has, to the best of her ability, reviewed the numerous documents submitted with the 61 page information disclosure statement filed with this response. Upon this review, Claims 1-3, 5-12, 15-25, 27 and 28 are allowed for the reasons recited in the 7/7/08 Office Action.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY C. JACOB whose telephone number is (571)272-6249. The examiner can normally be reached on Tuesday-Thursday 7AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary C Jacob/  
Examiner, Art Unit 2123

/M. C. J./  
1/7/10

/Paul L Rodriguez/

Supervisory Patent Examiner, Art Unit 2123